

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 3:06-cr-141-MEF
)	(WO)
CLAUDE JEROME WILSON, II)	

ORDER

On April 1, 2008, the defendant filed an Unopposed Motion to Continue Trial (Doc. #71). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states the defendant plans to assist the State of Alabama in the prosecution of a capital murder trial set for April 21, 2008 in Russell County, Alabama, and Mr. Wilson is expected to be a material witness in the trial. Defense counsel needs additional time to adequately prepare for trial of this case or to negotiate a pretrial resolution. A continuance

is essential to complete the investigation of this case. Counsel for the government does not oppose a continuance. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on April 1, 2008 is GRANTED;
2. That the trial of this case is continued from the April 28, 2008 trial term to the August 11, 2008 trial term in Opelika, Alabama.
3. That the Magistrate Judge conduct a pretrial conference prior to the August 11, 2008 trial term.

DONE this the 2nd day of April, 2008.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE